

CHAPTER 5
ETHICS AND CAMPAIGN DISCLOSURE BOARD

[Prior to 9/9/87, Campaign Finance Disclosure[190] Ch 5]
[Prior to 3/30/94, Campaign Finance Disclosure Commission[121] Ch 5]

351—5.1(56,68B) General agency description.

5.1(1) The ethics and campaign disclosure board consists of six members appointed by the governor and confirmed by the senate. At the first meeting in each calendar year the members elect a chair and a vice chair, each to serve a one-year term. Meetings of the board are held, usually in alternate months, at the call of the chair at the time, place and date set by the chair. Meetings may occasionally be conducted by electronic means. When possible, meetings are announced at least one week in advance; however, when one week's notice is not possible, meetings shall be announced at least 24 hours prior to the commencement of the meeting, in conformance with Iowa Code section 21.4. Notice of meetings shall be given by public notice to the media and also posted in the lobby of the board's offices and in the office of the Governor, Statehouse, Des Moines, Iowa. The notice contains the tentative agenda of the meeting. Four board members constitute a quorum for conducting business of the board. It takes an affirmative vote of four board members for a motion to pass. Any interested party may attend and observe board meetings except for the portion that may be closed in accordance with Iowa Code section 21.5. Observers may use cameras or recording devices during the course of a meeting so long as the use of the devices does not materially hinder the proceedings. The meetings shall be generally conducted according to rules of parliamentary procedure. If possible, open session proceedings shall be electronically recorded by the board, and closed session proceedings shall be electronically recorded by the board. Minutes of meetings are available for viewing at the board offices. Copies may be obtained pursuant to the applicable copy fee schedule.

5.1(2) Duties of the board include the receipt, examination, and the preservation of documents required to be filed at the state level, the receipt and processing of complaints alleging violations of Iowa Code chapters 56 (campaign finance) and 68B (ethics), the holding of administrative hearings, the development and disseminations of information and educational materials related to the law. The board jointly administers the income tax checkoff with the Iowa department of management and the director of the Iowa department of revenue and finance. The board employs an executive secretary/director and other staff as it deems necessary to carry out the provisions of the law and the policies of the board. The executive secretary/director is responsible to the board and is responsible for administrative matters and general supervision of board staff.

This rule is intended to implement Iowa Code sections 68B.32 and 68B.32A.

351—5.2(68B) Requirements for requesting board opinions.

5.2(1) *Persons who may make requests.* Board opinions may be requested by any of the following:

- a. A local official as defined in Iowa Code section 68B.2(15).
- b. A local employee as defined in Iowa Code section 68B.2(14).
- c. An official as defined in Iowa Code section 68B.2(17).
- d. A state employee as defined in Iowa Code section 68B.2(25).
- e. A candidate as defined in Iowa Code section 56.2(3).
- f. A chairperson or treasurer of a candidate's committee as defined in Iowa Code section 56.2(4).
- g. Lobbyists and lobbyists' clients before the executive branch of state government.
- h. Another person subject to the board's jurisdiction under Iowa Code chapter 56 or 68B.
- i. An authorized agent of one of the above, but the agent shall disclose the identity of the agent's principal.

5.2(2) *Subject matter of requests.* The opinion request shall describe the specific transaction or activity that the requesting person plans to undertake or is presently undertaking. Requests presenting a general question of interpretation, or posing a hypothetical situation, or regarding the activities of third parties, do not qualify as opinion requests. The board may issue opinions pertaining only to Iowa Code chapter 56 or 68B, or rules adopted thereunder.

5.2(3) *Form of requests.* An opinion request shall be in writing and shall contain a citation that the request is being made for an opinion pursuant to Iowa Code subsection 68B.32A(11). An opinion request shall provide sufficient information to determine standing and subject matter jurisdiction.

This rule is intended to implement Iowa Code section 68B.32A.

351—5.3(68B) Processing of opinion requests; formal and informal board opinions; routine administrative advice.

5.3(1) Requests for board opinions shall be sent to the Iowa Ethics and Campaign Disclosure Board, 514 East Locust, Suite 104, Des Moines, Iowa 50309.

5.3(2) An opinion request which qualifies under these rules shall be reviewed by board staff, who shall determine whether to recommend to the board that the question posed presents such a fundamental issue that formal board review and resolution is necessary. If formal board review is conducted and a conclusion is determined by four members of the board, the board will issue a written formal opinion containing advice which will, if followed, constitute a defense to a complaint filed with the board. A person who receives a formal board opinion may, within 30 days after the issuance of the opinion, request modification or reconsideration of the opinion, which shall be deemed denied unless the board acts upon the request within 30 days of the receipt of the request.

5.3(3) If upon staff review it is determined that opinion request qualifies under these rules but that the question posed is routine in nature, board staff may respond with a written informal board opinion. Formal and informal board opinions shall be maintained for public view in the offices of the board.

5.3(4) Nothing in this rule precludes board staff from providing oral or written routine administrative advice when presented with oral or written inquiries from any person.

5.3(5) Nothing in this rule precludes a person who has received an informal board opinion or routine administrative advice from petitioning for a declaratory order regarding a question which qualifies under 351—Chapter 9. The board will refuse to issue a declaratory order to a person who has previously received a formal board opinion on the same question, unless the requester demonstrates a significant change in circumstances from those underlying the formal board opinion.

This rule is intended to implement Iowa Code section 68B.32A.

351—5.4(56,22) Procedures for filing information. Rescinded IAB 3/30/94, effective 5/4/94.

351—5.5(56) Declaratory rulings. Rescinded IAB 3/30/94, effective 5/4/94. See 351—Chapter 9.

351—5.6 Reserved.

351—5.7(56) Subpoena power during investigations. Rescinded IAB 3/30/94, effective 5/4/94.

351—5.8(56) Board's agenda. A person who wishes to be placed upon the board's agenda for its next meeting should file a verbal or written request with the board office at least 48 hours prior to the meeting.

351—5.9(56) Treasurer receives forms. The board and county commissioner of elections shall provide report forms as mandated by Iowa Code section 56.30 to the treasurer of record of each active committee on or about April 25 of each year. The "treasurer of record" is the person designated on the statement of organization most recently filed with the board or county commissioner of elections.

This rule is intended to implement Iowa Code section 56.30.

351—5.10(22,56,68B) Availability of reports and information—copies provided; prohibitions.

5.10(1) *Copying costs and fees.* As provided by 351—subrule 10.3(7), a price schedule for copying and mailing costs and fees shall be posted in the board office. The price schedule shall be reviewed by the board at least annually.

5.10(2) *Mailing of copies.* Upon receipt of payment of copying costs and mailing costs, the board shall mail requested copies of reports to any person.

5.10(3) *Prohibited use.* Information regarding individuals that is copied or otherwise obtained from reports and statements required under Iowa Code chapter 56 or chapter 68B shall not be used by any person other than statutory political committees for the purpose of soliciting contributions or for any commercial purpose. For the purpose of this rule, “soliciting contributions” includes soliciting any type of contribution or donation of money or something of monetary value, such as political or charitable contributions. The use of information which is copied or otherwise obtained from the reports and statements in newspapers, magazines, books or other similar communications is permissible as long as the principal purpose of such communications is not to communicate any individual information listed on such reports for the purpose of soliciting contributions or for other commercial purpose.

5.10(4) *Information in electronic format.* Copies of information from reports and statements required under Iowa Code chapter 56 or chapter 68B which are maintained by the board in an electronic database, and copies of statistical reports based upon the reports and statements which the board routinely compiles by computer, shall be provided upon payment of costs and fees. Unless there is a technical inability to transfer the information to disk, the requester may specify whether the information is provided in a paper or disk format. However, any information printed or electronically transferred from an electronic database or computer shall include only the name, city and state, and shall not include the street or mailing address, including the ZIP code, of any individual.

5.10(5) *Protection.* A committee or other person required to file a report or statement under Iowa Code chapter 56 or chapter 68B must use the actual names of all individuals required to be disclosed on those reports and statements. However, a committee or other person filing a report or statement may choose to report the names of up to ten individuals on each report in such a manner so as to facilitate detection of an illegal use of the information, for example, by using an individual’s legal but not commonly known name, or by using a first initial and middle name with the last name. The committee or other person filing the report shall maintain a list of the name modifications used on the report, which shall be provided to the board upon request.

This rule is intended to implement Iowa Code section 68B.32A.

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